

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

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Charles Hamby,

Plaintiff,

v.

Conn Appliances, Inc.,

Defendant.

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: Civil Action No.: 4:15-cv-149  
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: **COMPLAINT**  
: **JURY**  
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For this Complaint, the Plaintiff, Charles Hamby, by undersigned counsel, states as follows:

**JURISDICTION**

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act 47 U.S.C. § 227, et. seq. ("TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

**PARTIES**

3. The Plaintiff, Charles Hamby ("Plaintiff"), is an adult individual residing in Houston, Texas, and is a "person" as defined by 47 U.S.C. § 153(39).
4. The Defendant, Conn Appliances, Inc. ("Conn"), is a Texas business entity with an address of 4055 Technology Forest Boulevard, Suite 210, The Woodlands, Texas 77381-2008, and is a "person" as defined by 47 U.S.C. § 153(39).

**FACTS**

5. Within the last year, Conn contacted Plaintiff by placing calls to Plaintiff's cellular telephone 832-xxx-4156 using an automated telephone dialer system with an artificial or prerecorded voice.

6. When Plaintiff answered the calls from Conn, he heard a prerecorded message requesting a call back from Plaintiff.

7. In or around March 2014, Plaintiff called Conn and told Conn to cease calling his cellular phone.

8. Despite being unequivocally advised by Plaintiff to stop calling, Conn continued to call Plaintiff.

**COUNT I**

**VIOLATIONS OF THE TCPA – 47 U.S.C. § 227, et seq.**

9. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

10. At all times mentioned herein, Conn called Plaintiff on his cellular telephone using an ATDS or predictive dialer and/or by using a prerecorded or artificial voice.

11. Plaintiff did not provide and/or revoked his express consent to be contacted on his cellular telephone.

12. Conn continued to place calls to Plaintiff's cellular telephone after being advised by Plaintiff that he wanted all calls to cease. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and is subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

13. The telephone number called by Conn was assigned to a cellular telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

14. The calls from Conn to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

15. Each of the aforementioned calls made by Conn constitutes a violation of the TCPA.

16. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

17. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

### **PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff prays that judgment be entered against the Defendant:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(1)(A);
- B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C);
- C. Such other and further relief as may be just and proper.

### **TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: January 19, 2015

Respectfully submitted,

By: /s/ Jenny DeFrancisco

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